

## Message Text

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ACTION AF-10

INFO OCT-01 EUR-12 ISO-00 HA-05 SSC-01 OMB-01 CIAE-00  
DODE-00 PM-05 H-01 INR-07 L-03 NSAE-00 NSC-05  
PA-01 PRS-01 SP-02 SS-15 USIA-06 AID-05 PC-01  
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R 241315Z JAN 78  
FM AMEMBASSY KINSHASA  
TO SECSTATE WASHDC 7851  
INFO AMEMBASSY BRUSSELS  
AMEMBASSY PARIS  
AMCONSUL LUBUMBASHI  
AMCONSUL BUKAVU

C O N F I D E N T I A L SECTION 1 OF 2 KINSHASA 0765

E.O. 11652: GDS  
TAGS: PGOV, CG  
SUBJECT: MOBUTU'S REORGANIZATION OF THE JUDICIARY

REF: A) 77 KINSHASA 11863; B) 76 KINSHASA A-50; C) 77 KINSHASA  
6137 D) 77 KINSHASA 6192

1. SUMMARY: ON DECEMBER 28 MOBUTU CENTRALIZED CONTROL OF ALL ASPECTS OF THE JUDICIAL SYSTEM IN THE OFFICE OF THE SOLICITOR GENERAL, EFFECTIVELY ABOLISHING THE VACANT POST OF STATE COMMISSIONER FOR JUSTICE. THE LAST COMMISSIONER TO HOLD THAT OFFICE, MAMPUYA KANUK'A TSHIABA, REPORTEDLY IS TO BE PROSECUTED FOR VARIOUS INADEQUACIES AND ABUSES WHICH HAVE BEEN UNCOVERED WITHIN THE PRISON SYSTEM. SEVERAL OTHER JUDICIAL OFFICIALS WERE ALSO STRIPPED OF THEIR POSITIONS. THIS ACTION INCREASES SUBSTANTIALLY THE POWER OF ONE OF MOBUTU'S CLOSESE ASSOCIATES, SOLICITOR GENERAL KENGO WA DONDO. WHILE IT MAY RESULT IN INCREASED EFFICIENCY, THE EXTENT TO WHICH IT WILL ADVANCE GENUINE JUDICIAL REFORM REMAINS TO BE SEEN. END SUMMARY.

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2. ON DECEMBER 28 PRESIDENT MOBUTU EFFECTIVELY ABOLISHED THE POST OF STATE COMMISSIONER FOR JUSTICE WHICH HAD BEEN LEFT VACANT IN THE RECENT CABINET RESHUFFLE (REF A). ALL RESPONSIBILITIES PREVIOUSLY EXERCISED BY THE COMMISSIONER HAVE BEEN TRANSFERRED TO THE SOLICITOR GENERAL, KENGO WA DONDO (WHO SURVIVED

THE RESHUFFLE TO STAY AT THE POST). KENGO'S NEW AUTHORITY HAS BEEN FURTHER ENHANCED BY MOBUTU'S DECREE MAKING THE SOLICITOR GENERAL THE PRESIDENT OF THE JUDICIAL COUNCIL (I.E., THE JUDICIAL BRANCH OF THE GOVERNMENT).

3. THIS REORGANIZATION CENTRALIZES IN ONE OFFICE THE DIRECTION OF ALL ASPECTS OF THE JUDICIAL AND PENAL SYSTEMS PREVIOUSLY DIVIDED BETWEEN THREE INDEPENDENT OFFICES. THE SOLICITOR GENERAL WILL PARTICIPATE IN THE EXECUTIVE COUNCIL AND ASSURE THE DIRECTION, ADMINISTRATION, AND OVERSIGHT OF THE COURTS, THE TRIBUNALS, THE PUBLIC PROSECUTORS, THE PRISONS, AND THE SUPPORTING ADMINISTRATIVE APPARATUS. HE CAN NOMINATE JUDGES, PROSECUTORS, AND EXECUTIVE PERSONNEL FOR APPOINTMENT OR PROMOTION BY THE PRESIDENT OF THE REPUBLIC. THE SOLICITOR GENERAL CAN ALSO MAKE PROVISIONAL APPOINTMENTS OF JUSTICES AND PROSECUTORS, IN CASES OF URGENT NEED, AS LONG AS THESE INDIVIDUALS FILL A POST OR JURISDICTION EQUAL OR SUPERIOR IN RANK TO THAT FROM WHICH THEY ARE NAMED.

4. IN ADDITION, THE SOLICITOR GENERAL IS RESPONSIBLE FOR MONITORING SENTENCES LEVIED BY THE COURTS AND CAN REQUIRE THE SUPREME COURT TO MODIFY ANY AND ALL SENTENCES HE JUDGES AS "NOT CONFORMING TO THE ADMINISTRATION OF GOOD JUSTICE." HE ALSO ISSUES DIRECTIVES TO THE COURTS IN ORDER TO "ASSURE THE CONSISTENCY OF CONFIDENTIAL

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THEIR LEGAL DECISIONS." THESE DIRECTIVES HAVE THE FORCE OF REGULATIONS AND CAN ONLY BE DISREGARDED FOR UNSPECIFIED "SPECIAL REASONS." FINALLY, THE SOLICITOR GENERAL APPOINTS THE MEMBERS OF THE DISCIPLINARY CHAMBERS OF THE SUPERIOR COUNCIL OF MAGISTRATES AND DIRECTS THEM IN EXERCISING DISCIPLINARY AUTHORITY OVER ALL MAGISTRATES AND PROSECUTORS. THIS APPEARS TO ENABLE THE SOLICITOR GENERAL TO DICTATE THE SENTENCES TO BE ISSUED BY THE COURTS AND TO ENFORCE HIS DICTATES THROUGH THE REGULAR DISCIPLINARY CHANNELS.

5. IN A RELATED MOVE, THE GOZ HAS BROUGHT CHARGES AGAINST THE FORMER STATE COMMISSIONER FOR JUSTICE, MAMPUYA KANUK'A TSHIABO, ON THE BASIS OF A REPORT SUBMITTED BY SOLICITOR GENERAL KENGO WA DONDO WHICH WE UNDERSTAND DEALS WITH THE ABUSES AND INADEQUACIES OF THE ZAIRIAN PRISON SYSTEM. AS PAST EMBASSY HUMAN RIGHTS REPORTS (REFS B & C) HAVE NOTED, THESE INCLUDE THE PHYSICAL ABUSE OF PRISONERS BY GUARDS AND POLICE, INADEQUATE FOOD, SEVERE MALNUTRITION, OVERCROWDED CELLS, POOR SANITARY CONDITIONS, AND PROLONGED DETENTION WITHOUT CHARGES OR TRIAL. THE EXISTENCE OF SUCH CONDITIONS WAS CONFIRMED IN A PRESS REPORT OF

KENGO'S SURPRISE INSPECTION OF THE MAKALA PRISON IN  
KINSHASA IN EARLY NOVEMBER, 1977.

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C O N F I D E N T I A L SECTION 2 OF 2 KINSHASA 0765

6. ALSO STRIPPED OF THEIR POSITIONS AND THEIR MEMBER-  
SHIP IN THE ORDER OF THE LEOPARD WERE: SIMBA MABINGU AND  
BOMO BONGWALANGA, BOTH SOLICITORS AT THE LUBUMBASHI  
COURT OF APPEALS; MUTOMBO BAKAFWA, A LEGAL ADVISOR TO  
THE SUPREME COURT; AND ADJUTANT MOGBOSA TEMBELLE, A  
MEMBER OF THE MILITARY JUDGE ADVOCATE GENERAL'S CORPS.  
THE CHARGES AGAINST THE ABOVE WERE NOT MADE PUBLIC.

7. COMMENT: THE ZAIRIAN PRESS HAS CHARACTERIZED THESE  
CHANGES AS THE LATEST STEPS IN THE IMPLEMENTATION OF  
THE REFORMS OUTLINED IN MOBUTU'S JULY 1 SPEECH (REF D). WHILE  
THE INCREASED CENTRALIZATION MAY RESULT IN GREATER EFFICIENCY  
WITHIN THE JUDICIAL SYSTEM, ITS IMPACT ON JUDICIAL REFORM IS  
UNCLEAR. THE CHARGES BROUGHT AGAINST FORMER JUSTICE  
COMMISSIONER MAMPUYA MAY SIGNAL IMPROVED PRISON CONDI-  
TIONS AND A DECLINE IN FALSE ARRESTS AND IMPRISONMENTS.  
HOWEVER, MOST OF OUR ZAIRIAN SOURCES VIEW THE INCREASE  
IN KENGO'S POWERS SKEPTICALLY AS INDICATING THAT MOBUTU  
INTENDS TO PAY NO MORE THAN LIP SERVICE TO SUCH REFORMS.

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8. TO HIS CREDIT, KENGO REPORTEDLY WAS A MEMBER OF THE REFORM FACTION WHICH PRESSED LAST YEAR IN FAVOR OF THE CREATION OF THE POST OF PRIME MINISTER IN ORDER TO INCREASE GOZ EFFICIENCY BY REDUCING MOBUTU'S ROLE IN ROUTINE DECISION-MAKING. HIS DETRACTORS ARGUE THAT HIS RECENT PROMOTION, WHEN COMPARED WITH THE FALL OF OTHER KEY FACTION MEMBERS (FORMER CENTRAL BANK GOVERNOR SAMBWA AND FORMER FOREIGN MINISTER NGUZA), SUGGESTS THAT HIS SUPPORT FOR THAT REFORM WAS LUDEWARM.

9. MORE RECENTLY, KENGO PLAYED A CRUCIAL ROLE AT THE NOVEMBER 1977 MPR PARTY CONGRESS IN PREVENTING DELEGATES FROM PUTTING THEIR CRITICISMS OF REGIME POLICIES ON THE RECORD. SUCH ACTIONS HAVE EARNED HIM A REPUTATION AS HIGHLY AUTHORITARIAN AND A WILLING HATCHET-MAN FOR MOBUTU. ACCORDING TO ONE SOURCE AT THE LEGISLATIVE COUNCIL, DEPUTIES THERE ARE CONCERNED THAT KENGO WILL ACT AS MOBUTU'S PRINCIPAL ALLY IN OPPOSING THEIR ATTEMPTS TO EXPAND THEIR POLITICAL ROLE.

10. KENGO'S SUITABILITY FOR ATTACKING CORRUPTION IN THE JUDICIAL SYSTEM IS OPEN TO QUESTION. HE PLAYED A CENTRAL ROLE IN THE ARBITRARY ARREST AND SUBSEQUENT ATTEMPT TO EMPTY THE BANK ACCOUNT OF AN EXPATRIATE ENTREPRENEUR WELL-KNOWN TO THE EMBASSY. ON THE OTHER HAND, AND AMERICAN BUSINESSMAN WITH EXCELLENT ACCESS TO MOBUTU AND HIS ENTOURAGE CONSIDERS KENGO TO BE RELATIVELY HONEST.

11. THE NEW PRESIDENT OF THE JUDICIAL COUNCIL IS CLEARLY A CONTROVERSIAL FIGURE.

THANKS IN PART TO THE INCREASED POWERS HE HAS JUST OBTAINED, SOME OBSERVERS NOW CONSIDER HIM TO BE SECOND ONLY TO MOBUTU IN THE CIVILIAN SECTOR.  
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KENGO'S NEW AUTHORITY CERTAINLY PUTS HIM IN A STRONGER POSITION THAN HIS PREDECESSORS TO IMPOSE HIS WILL ON THE JUDICIAL SYSTEM. WHETHER THIS WILL BE FOR GOOD OR ILL REMAINS TO BE SEEN.  
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## Message Attributes

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